

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 07-0039
Indiana Individual Income Tax
For 2003

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Proposed Assessment – Adjusted Gross Income Tax.

Authority: IC § 6-8.1-5-1(a); IC § 6-8.1-5-1(b); Baker v G. C. Services Corp. 677 F2d 775 (9th Cir. 1982); Black's Law Dictionary (7th ed. 1999).

Taxpayer challenges a proposed assessment of individual Indiana income tax based on the Uniform Commercial Code, the Fair Debt Collection Practices Act, and the belief that the proposed assessment is "false, deceptive, and misleading."

STATEMENT OF FACTS

In November 2006 the Department of Revenue (Department) sent taxpayer a notice of "Proposed Assessment" for Indiana Adjusted Gross Income Tax. Taxpayer disagreed with the proposed assessment on various grounds. The Department treated the disagreement as a "protest," the matter was assigned to a Hearing Officer, and an administrative hearing was scheduled. Although taxpayer was provided notice of the hearing date, taxpayer declined to participate or request an alternative hearing date. This Letter of Findings was prepared based upon taxpayer's written protest.

I. Proposed Assessment – Adjusted Gross Income Tax.

DISCUSSION

Taxpayer challenged the proposed assessment pursuant to "U.C.C. § 1-301" and the "Fair Debit Debt Collection Practices Act, 15 USC § 1601-1692 et al."

IC § 6-8.1-5-1(a) states that, "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department."

Once the proposed assessment has been issued, it is the taxpayer's responsibility to demonstrate that the proposed assessment is incorrect. Specifically, IC § 6-8.1-5-1(b) provides that, "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid

tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer has cited to “U.C.C. § 1-301” for the proposition that the proposed assessment is erroneous. The Uniform Commercial Code is defined as “A uniform law that governs commercial transactions, including sales of goods, secured transactions, and negotiable instruments.” Black’s Law Dictionary 1530 (7th ed. 1999). In his challenge of the proposed assessment, taxpayer’s reliance on the Uniform Commercial Code is not well founded because the proposed assessment is a tax bill not a commercial transaction.

Taxpayer also cites to the Fair Debt Collection Practices Act in challenging the proposed assessment. The “Fair Debt Collection Practices Act (15 USCS §§ 1692 et seq.) is designed to protect consumers who have been victimized by unscrupulous debt collectors, regardless of whether valid debt actually exists.” Baker v G. C. Services Corp. 677 F2d 775 (9th Cir. 1982). However, taxpayer cites to nothing in the proposed assessment which represents an unscrupulous attempt by a third-party bill collector. Although taxpayer may strongly believe that Indiana has incorrectly attempted to collect an unpaid tax liability, there is nothing apparent in the record which support taxpayer’s evident claim that Indiana has acted in an “unscrupulous” manner in doing so.

Taxpayer also makes certain other claims including the argument that the proposed assessment is “intended to PERVERT the truth for the purpose of inducing [taxpayer] in reliance upon such to part with property belonging to [taxpayer] and to SURRENDER certain substantive legal and constitutional rights.” (Emphasis in original). However, taxpayer’s arguments appear simply rhetorical. Taxpayer needs to do more than write “I.R.S. ERROR CANCELED UCC § 3-504(1)” across the face of the proposed assessment.

Taxpayer has failed to meet his burden of demonstrating by that the proposed assessment is erroneous.

FINDING

Taxpayer’s protest is denied.